July 31, 2014

Dear Representative:

On behalf of the American Bar Association and its nearly 400,000 members nationwide, I write to urge you to oppose H.R. 5230, the Secure the Southwest Border Supplemental Appropriations Act of 2014. Additional resources are surely needed to address the challenges created by the increased number of unaccompanied children entering the country. However, the funding provided in H.R. 5230 is grossly inadequate to meet many critical needs and the bill contains misguided provisions that would significantly diminish the legal protections provided to these children under current law.

H.R. 5230 would subject these children to an expedited screening process and require them to present their case before an immigration judge in just seven days. It further requires immigration judges to issue an order within 72 hours of the conclusion of each proceeding. These requirements place unfair and unrealistic burdens on both the children and the judges. Although the bill provides some additional funding for the immigration courts, it is not sufficient to avoid severely increasing the strains on this already overburdened and chronically under-resourced adjudication system. These provisions elevate speedy procedure over due process - an anathema to our system of justice and they are unnecessary.

In addition, H.R. 5230 provides no additional funding for legal representation. Due to their age, lack of education, language and cultural barriers, and the complexity of U.S. immigration law, these vulnerable children face insurmountable obstacles to proving their claims for protection before an immigration judge on their own. Many of these children also have suffered traumatic experiences before or during their journey to the United States; it is the children who are most likely be eligible for some relief under the law, such as victims or trafficking or persecution, who may be least able to articulate their experiences under this proposed procedure. This creates the likelihood that those children with a valid claim to asylum or other legal protection are the ones most likely to be returned to their home countries to face serious harm or even death.

There is no question that the rapid increase in unaccompanied children entering our country presents many difficult challenges that require our nation to respond. However, in the rush to address the current crisis, the United States cannot abandon the principles of fairness and due process. H.R. 5230 fails in this regard and we strongly urge you to vote against it.

Sincerely,

Thomas M. Susman